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COMMENTS

In the matter of)
Docket No. 00-10)
Establishing of a)
Class A Television)
Service)

MM RM-9260

Filed electronically on February 7, 2000

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Before the
Federal Communications Commission
Washington, D.C. 20554

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)
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Establishment of)
a Class A)
Television Service)

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Comments of
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1. The following COMMENTS are keyed to the paragraph numbers contained in the ORDER AND NOTICE OF PROPOSED RULE MAKING Adopted January 13, 2000.

2. The commentor is the Managing Member of Ruarch Associates, a Virginia Limited Liability Company, and also the General Manager of Low Power and Television Translator Stations licensed to that organization.

3. These stations are WAZT-LP, Woodstock, Virginia; WAZW-LP, Winchester, Virginia; W16AZ, Luray, Virginia; W24AZ, Harrisonburg, Virginia; W25AZ, Staunton-Waynesboro, Virginia, and W28AZ, Front Royal, Virginia.

4. While the entire NPRM seeks input from cognizant parties, my comments will seek to express input on those areas I feel to be expedient for our situation and our future.

5. (9) No applications under the CPBA parameters should be accepted by the FCC once the current application period is over. However, the FCC should establish subsequent filing procedures and parameters for LPTV stations wishing to achieve Class A status and not preclude the addition of qualified stations as they become eligible for such status.

6. (10) The protected service area should be maximized just as the protected service area of full power DTV assignments was allowed to be maximized.

7. (12) The rules should contain a percentage tabulation, affording an applicant station to achieve a score based upon the

adherence to subsections. Achieving a score of 60 out of 100 would place a non-conforming station in the acceptable range with additional points offered for corroborative detail from jurisdictional officials, award and certifications, and other measuring devices. The FCC should set the 'passing grade' which would be a combination of rules subsection adherence plus the addenda from the communities served.

8. (13) Predicted interference contours should be based on terrain and other shielding as current rules allow.

9. (14) Protection based solely on mileage separation is an ineffective and unfortunate standard. This will become obvious when modifications to service areas are requested by full power stations and overlap of existing contours of LPTV/A stations comes as a result. In many instances, the areas gained in that overlap are not useful or even wanted by the full power stations but are the essence of existence by the LPTV/A stations. Drawing a circle on a map will not enhance the viewership of a full power station more than a hundred miles away, but it could preclude the only local service to an isolated or unique community which has no affinity for the intruding signal. In other areas where the increased service area is beneficial to the station and its fringe audience, there should be no restriction analog or ATV.

10. (15) The same rules should apply in all instances as mitigated by my comments in (14) above.

11. (16) Existing stations in any service should be fully protected from new applications especially in the area of the desired to undesired ratios. Being previous has always had a direct bearing on our system of democracy, even though that rule has not been practiced in some broadcast proceedings. We believe that the time is appropos for the first filer to receive posture.

12. (17) It seems unlikely that any station requesting a maximization of its proposed contours would later desire to have those contours reduced. However, in that unlikely situation, I would urge that the maximized contours continue to be observed. A parallel would be in FM broadcasting, where the maximum coverage of a station is observed even if that station is not, has not, and probably could not increase power to that maximum. The same criteria should be observed in all services.

13. (19) The service area for a group of commonly controlled stations should be the connection of each Grade B contour to form a master contour surrounding the stations in the

group. Each such station can be classified as a lobe of this created contour for service area declaration purposes. Commonly controlled stations can have overlapping Grade B contours when they serve a readily identifiable community. Such stations attract local viewers. Since television viewers do not watch even local LPTV 24 hours a day, seven days a week, programs that may be of interest should be repeated. However, only those programs which are originated and produced by the station or station group or unavailable from any other source be counted as part of the three hour minimum.

14. (20) In some instances it may be impossible for an LPTV station to cover its entire community of license due to power, or transmitter site, or even waste coverage when the audience is in a specific area or of a language persuasion. Exemption to the rule should be allowed in any case. In the matter of which section to license Class A stations in, if it would provide cable must-carry as full power stations enjoy, then Part 73 would be wholly acceptable. There is no point to the observing of Part 73 rules if Class A stations are not must-carry for cable. Being 'over-the-air-only' decimates or more substantially reduces the potential audience, advertiser support, program supplies and profitability, and adding the Part 73 burdens without the benefits is untenable.

15. (21) In establishing the rules for Class A, flexibility must be maintained especially in the area of programming. What may be superior local service by a Class A station would not be enhanced by enforcing the 'local program production' regulation.

16. (22) Unless the ownership of broadcast/print media is total in a community, cross or multiple media ownership should not be considered in granting Class A status.

17. (23) If there is an available channel in an area served by an LPTV/A station which is not reserved for DTV or applied for as a translator or other LPTV or Class A station, that channel should be made available and licenseable to a Class A operating station as a paired assignment to be used for DTV.

18. (24) There will be promotional and other Class A TV expenses that begin with the assignment of Class A status so the FCC should begin protection of that station when so designated.

19. (25) No available channel should be denied to a Class A station. To do so would not be an efficient use of spectrum.

20. (27) Even though table of allotments channels were not applied for by the Class A eligibility date of November 29, 1999, they should be treated as if assigned and be protected by Class A applicants. It is more than just the channel allotted that is in consideration, since decisions made establishing those table of allotment stations controlled a possible "daisy chain" effect.

21. (28) In some instances the applications for full power stations have been on file and under investigation for very long periods of time. Those applications on file seeking full power status should be protected from LPTV stations seeking Class A status. However, if those applications are withdrawn, mooted, denied or not be acted upon if granted, then no further protection should be afforded them.

22. (29) Please refer to my comments in paragraph 13.

23. (30) While the FCC has attempted to replicate the NTSC service area with DTV assignments, protection to the DTV service area by Class A stations should not only utilize Longley Rice tabulations, but also consider the peculiar drop out of digital signals at fringe areas which preclude acceptable reception. The establishment of a contour does not assure a readable DTV signal.

24. (31) Once a station is eligible for Class A designation, it should no longer be susceptible to any operating parameter changes. Class A status is to be enjoyed in perpetuity.

25. (32) There is an ongoing process as requested by the Commission which would allow a DTV station to enlarge its service area, filing for which must be done by May 1, 2000. No further filing should be allowed which would violate the established Class A service area by a DTV station after that date to include the change in location of a transmitter/tower site if it would require any modification to the authorized Class A station.

26. (33) Once a Class A station has received its formal construction permit or other notification of permanency, it should not be in conflict with a DTV maximization allocation. Class A status should not be granted if an application review reveals potential conflict with service area replication by a DTV station.

27. (34) An LPTV station should not be given Class A if the FCC perceives that a future move by an NTSC or DTV station will place that LPTV station in conflict with a move of that NTSC or

or DTV station into a core channel. It would be unfortunate for a Class A station to modify its service area after it has an eligibility status or full Class A authorization when it could be precluded by study of DTV or analog channel reversion to DTV.

28. (38) There is precedence at the FCC which requires all expenses incurred by a station to be paid by the station which requires such a move when the moving station is otherwise in compliance with the rules. Class A stations should have all of its expenses reimbursed. No station with permanent status (i.e. Class A LPTV) should have to use its own money to make changes thrust upon it by the desires of another station.

29. (41) Class A television stations should be allowed to submit an application for a Construction Permit to change the operating parameters of the facility at the time of transition from LPTV to Class A status. This would be a filing window just for Class A applicants, and would assure this category of tv station the opportunity to provide the best service area in full adherence to all existing rules and other allocations. Just as the full power stations had a one time opportunity to maximize the DTV service areas, the same on time opportunity should be afforded to Class A stations.

30. (42) LPTV stations currently operating under an STA for various reasons should be allowed to apply for Class A status if eligible utilizing the STA parameters without the need for a formal filing window. This is acceptable because the STA is granted based upon a review of the application that assures compliance with all existing rules. Adding a CP filing step would add burdens that are not needed.

31. (43) The applicant for Class A status should have the option of filing either electronically or on paper.

32. (46) As in the case of FM stations, protection is given from station to station as if each has built to the full power and height allowed under the type and class of license. The same rule should be applied to Class A and Full Power stations. There should be no height restriction on towers as long as clearance can be obtained from the Federal Aviation Administration.

33. (47) In the case of overlapping contours between a Full Power and a Class A station in applicant status, a petition to deny should be accepted if the population count within the overlapping area is significant. When the overlap occurs in an unpopulated or virtually unpopulated area, no petition to deny should be accepted.

34. (49) Applicants for displacement relief applying for the same channel should be given precedence by filing date, but that should not be the sole deciding factor. Compliance with Class A parameters and other qualifiers such as owner integration and local residency should also be considered.

35. (50) Prioritizing application status according to the service proposed has always been a standard enforced by the FCC. In the case of mutually exclusive applications by Class A, LPTV, and Translator, the order should be as presented.

36. (52) Displacement applications should have absolute priority in any given situation, and no available channel should be denied to the applicant for a displacement channel, however, core channels should be the primary allocation in any case.

38. (55,56) Because of the vagaries of power, tower site and directivity, Class A stations should not be required to cover their entire city of license. The Class A station should be allowed to extend its signal to cover its perceived market. This may be a portion of its city of license, or in many instances, a portion of a dual-identity market.

39. (57) Fees and charges paid by LPTV stations should be continued for Class A stations. There is nothing in the new designation that would suggest that additional fees and charges would be justified by the same station with a new Class. Likewise the acceptance of existing transmitters should be maintained since Class A stations would not be purchasing different types of equipment just because of the name change. To distinguish Class A stations from other LPTV stations, the enclitic - LP should be removed only if there is no other station with the same call.

SUBMITTED
February 7, 2000